

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WIRELESSCO, L.P., BY AND THROUGH ITS)	
AGENT AND GENERAL PARTNER SPRINT SPECTRUM, L.P.,)	
AND SBA TOWERS KENTUCKY, INC., JOINTLY FOR ISSUANCE)	CASE NO.
OF A CERTIFICATE OF PUBLIC CONVENIENCE AND)	97-356
NECESSITY TO CONSTRUCT A PERSONAL)	
SERVICES FACILITY IN THE LEXINGTON MAJOR TRADING)	
AREA [ATHENS FACILITY])	

O R D E R

On August 29, 1997, Sprint Spectrum, L.P. on behalf of WirelessCo, L.P. ("Sprint Spectrum") and SBA Towers Kentucky, Inc. ("SBA Towers") filed a joint application seeking a Certificate of Public Convenience and Necessity to build and operate a communications tower in the Louisville Major Trading Area, which encompasses the entire Commonwealth of Kentucky. SBA Towers has requested authorization to construct a communications facility in Fayette County. Sprint Spectrum was previously granted the authority to operate a Personal Communications System in Case No. 96-077.¹

The proposed site consists of a 251-foot or less guyed antenna tower to be located at 5527 Athens-Boonesboro Road, Lexington, Fayette County, Kentucky ("the Athens site"). The coordinates for the Athens site are North Latitude 37° 57' 46.8" by West Longitude 84° 23' 11.5".

¹ Case No. 96-077, The Application of WirelessCo, L.P., d/b/a Sprint Telecommunications Venture for Operating Authority and Issuance of Certificate of Public Convenience and Necessity to Construct Commercial Mobile Radio Service Transmission Facilities in Kentucky.

SBA Towers has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Athens site. On January 30, 1998, SBA filed an amended set of tower plans. Based upon the amended application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer.

Sprint Spectrum has demonstrated the need for a communications tower at the Athens site. Pursuant to KRS 100.324(1), the Athens site's construction is exempt from local zoning ordinances; however, SBA Towers notified the Fayette County Planning Commission of the pending construction. SBA Towers has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Athens site. Both applications are pending.

SBA Towers has filed notices verifying that each person who owns property within 500 feet of the Athens site has been notified of the pending construction. The notice solicited any comments and informed the property owners of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after the joint application was filed. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, SBA Towers should notify the Commission if this antenna tower is not used to provide communications services. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings

to consider the proper practices, including removal of the unused antenna tower, which should be observed by SBA Towers.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that SBA Towers should be granted a Certificate of Public Convenience and Necessity to construct the Athens site.


IT IS THEREFORE ORDERED that:

1. SBA Towers is granted a Certificate of Public Convenience and Necessity to construct the Athens site.
2. SBA Towers shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this site construction within 10 days of receiving these decisions.
3. SBA Towers shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months.


Done at Frankfort, Kentucky, this 23rd day of February, 1998.


PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director


Commissioner